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UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

9  
10 IN RE: SOCIAL MEDIA ADOLESCENT  
11 ADDICTION/PERSONAL INJURY PRODUCTS  
12 LIABILITY LITIGATION

This Document Relates To:

ALL ACTIONS

MDL No. 3047

Case No. 4:22-md-03047-YGR (PHK)

**JOINT STATUS REPORT ON  
FORENSIC IMAGING AND DEVICE  
DATA**

Judge: Hon. Yvonne Gonzalez Rogers

Magistrate Judge: Hon. Peter H. Kang

Pursuant to Discovery Management Orders No. 8 and 9 (“DMO No. 8” and “DMO No. 9”), the Parties jointly provide this status report on forensic imaging and device data of Plaintiffs’ devices (hereinafter “Main Devices”)<sup>1</sup> as well as the Parties’ progress in conferring on certain other topics as directed by the Court.

### **I. Search Terms & Word Searchable Databases**

In DMO 9, the Court ordered the Parties “to finalize their agreed upon search terms by no later than August 16, 2024.” In the week following the August 8, 2024 DMC, the Parties continued to meet and confer on Bellwether PI Plaintiffs search terms and made significant progress on finalizing those terms. On August 16, 2024, the Parties filed a joint Stipulation and Proposed Order requesting a one-week extension to continue their conferrals to further narrow disputes regarding a small number of remaining search terms, which the Court granted. See ECF 1072. On August 23, 2024, the Parties filed an additional joint Stipulation and Proposed Order (1) noting that they had reached agreement on general search terms to be run across Bellwether PI Plaintiffs’ data sources, and (2) requesting a one-week extension until August 30, 2024 to continue their conferrals and attempt to narrow disputes regarding a small number of remaining case-specific search terms, which the Court granted. See ECF 1083. The Parties agreed to case-specific search terms to be run across Bellwether PI Plaintiffs’ ESI on August 30; however, as anticipated, further discussions are occurring regarding the data sources across which a few terms will be run for two Bellwether PI Plaintiffs. The Parties also continue to discuss the search terms to apply to data sources Plaintiffs have identified for loss of consortium plaintiffs/parents/guardians, which the Parties anticipate resolving by the end of this month. In addition, the JCCP Bellwether PI Plaintiffs have agreed, absent good cause, to the same general search terms as those negotiated for the Bellwether PI Plaintiffs in the MDL.

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<sup>1</sup> The Parties use the term “Main Devices” to refer to the Court’s definition in DMO 8 of devices from which information will be initially produced: “[A]ll devices (cellphones, tablets, laptops, computers, and the like) which are in each Bellwether PI Plaintiff’s possession, custody, or control and that they have habitually, routinely, or regularly used during the relevant time period to access the Defendants’ platforms.” Order at 8:24–9:25; Hrg. Tr. at 45:19–21.

1           **II. Forensic Imaging**

2           In DMO 9, the Court ordered: (1) the Parties “work out an agreement regarding an appropriate  
 3           procedure for dealing with CSAM on devices;” and (2) that Plaintiffs “produce full forensic imaging for  
 4           the remaining thirty-one devices at issue by no later than August 30, 2024.” *Id.* 2:20–23. The Court  
 5           further ordered that “[s]uch production shall be on a rolling basis with full imaging of a minimum of five  
 6           devices due by August 16, 2024, a minimum of five additional devices due by August 23, 2024, and all  
 7           remaining devices due by August 30, 2024.” *Id.* at 2:23–25.

8           On August 30, 2024 Judge Kuhl entered an order governing the handling of CSAM in the JCCP.  
 9           See JCCP CMO 10. MDL Plaintiffs have conveyed that it is substantially similar to the processes already  
 10          in place in the MDL and that Plaintiffs would have no problem adopting the same in the MDL if a similar  
 11          order is required here.

12          As of September 6, 2024, Plaintiffs reported that their ESI vendor completed full file system  
 13          (“FFS”) images of 30 Main Devices. Plaintiffs have also completed a “Before First Unlock” image of an  
 14          iPhone 7 belonging to Plaintiff Melton, which purportedly cannot have an FFS image taken due to  
 15          limitations of the device. Because of issues related to the device’s hardware and iOS versions, Plaintiffs  
 16          are also in the process of completing an FFS image of an iPad belonging to Plaintiff S.K. The Parties are  
 17          meeting and conferring over whether the iPhone 15 that now belongs to B.H.’s father (*see chart in § VI*)  
 18          qualifies as a Main Device that should undergo FFS imaging. The Parties will present any dispute over  
 19          this issue to the Court in a timely fashion.<sup>2</sup>

20           **III. Device Identifying Information**

21          In DMO 8, the Court ordered Plaintiffs to produce in chart form “every model number” and “the  
 22          applications” for the relevant devices. DMO 8 at 5–6. Because the Parties were not aligned on the content  
 23          of the chart, the Court clarified its intentions in DMO 9 and ordered the Parties to meet and confer by  
 24          August 16, 2024 “regarding what should be included in the chart of missing device identifying  
 25          information, after which Plaintiffs should begin supplementing the chart of agreed upon information.”

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27          <sup>2</sup> The Parties intend to submit a status report regarding the imaging of Plaintiff J.D.’s school-issued  
 28          device in accordance with DMO 10 no later than September 27, 2024. (ECF No. 1157, at 2.)

1 DMO 9 at 3:21–23. The chart shall be organized in a sufficient manner such that each device can be readily  
 2 identified with the corresponding data or files that are produced.” *Id.* at 3:11–13.

3 The Parties met and conferred on August 16, 2024 on the substance of a joint chart. Defendants  
 4 agreed to omit the columns for “Estimated Routine Usage,” “Operating System History,” “Application  
 5 Version,” “Date Application Installed” and “Date Application Deleted” from Appendix A for now, with  
 6 the understanding Defendants may request that information in the future depending on the device data that  
 7 Plaintiffs produce.

8 Plaintiffs agreed to substantially complete the agreed upon information in Appendix A by  
 9 August 30. As of September 19, 2024, Plaintiffs have provided:

- 10 • The serial number or ICCID number for 34 devices;
- 11 • The IMEI, MEID, or MAC address 33 devices (all applicable devices);
- 12 • The current operating system for 34 devices; and
- 13 • A complete list of applications on 34 devices.

14 Plaintiffs have not yet provided the approximate start and end dates for the device usage; however,  
 15 Plaintiffs have relayed that those dates will be able to be provided once all images have been transferred  
 16 to the respective ESI vendors.<sup>3</sup>

#### 17 **IV. Datasets, Relevant Applications, and Production Format and Logistics**

18 To date, Plaintiffs have made productions of text searchable ESI from a subset of the Main Devices  
 19 which had prior logical extractions performed. Plaintiffs’ ESI vendors are in the process of providing  
 20 Defendants an overlay for those prior productions from the main devices that specifically identify the  
 21 particular device and whether the production came from a logical or FFS image of the device.

22 Since search term negotiations have been largely finalized and CSAM process concerns have been  
 23 addressed, Plaintiffs’ forensics vendor has begun processing the device images and performing CSAM

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25 <sup>3</sup> To access the start and end dates for each device, the forensics vendor must load each device and  
 26 perform a review of the data. As conveyed to Plaintiffs’ counsel and relayed to Defendants, the start  
 27 dates are fairly easy to locate and the end dates require slightly more review. As such, Plaintiffs have  
 28 asked that this work await completion of the processing and transfer of all device images to ESI vendors  
 for review and production ahead of the agreed upon deadlines.

1 reviews. Once complete, the processed FFS images of Plaintiffs' Main Devices are sent to ESI vendors  
 2 for processing and ingestion into the review platforms for search terms to be run and productions to be  
 3 made.

4 The Parties have reached an agreement on specific interim deadlines for the bellwether personal  
 5 injury Plaintiffs to substantially complete productions of text-searchable ESI from Plaintiffs' collections,  
 6 including the full filesystem (FFS) images of Plaintiffs' Main Devices. The below chart reflects the  
 7 Parties' agreed-to substantial completion deadlines for Plaintiffs' text-searchable ESI. Plaintiffs agree to  
 8 substantially complete "data files, syslogs, and app settings . . . which are not readily searchable using  
 9 keywords or search terms" as required by DMO 8 by November 4, 2024.

<b>Plaintiff</b>	<b>Case No.</b>	<b>Plaintiff's firm</b>	<b>Selection mechanism</b>	<b>Date</b>
S.K.	4:23-cv-01584	Motley Rice	Plaintiff pick	9/30/2024
Craig, Klinten	4:22-cv-05890	Beasley Allen	Defense pick	9/30/2024
B.M.	4:23-cv-01615	Motley Rice	Plaintiff pick	9/30/2024
B.H.	4:22-cv-06751	Lieff Cabraser	Defense pick	10/10/2024
Clevenger, Laurel	4:22-cv-06457	Beasley Allen	Defense pick	10/10/2024
Smith, Leslie	4:23-cv-05632	Lieff Cabraser	Plaintiff pick	10/10/2024
Mullen, Nuala	4:23-cv-00600	SMVLC	Plaintiff pick	10/10/2024
Melton, David	4:22-cv-06627	Beasley Allen	Defense pick	10/18/2024
J.D.	4:22-cv-05987	Southern Med Law	Defense pick	10/18/2024
D'Orazio, Jessica	4:23-cv-03751	Lieff Cabraser	Plaintiff pick	10/18/2024
McNeal, Dymand	4:23-cv-01092	Levin Papantonio	Defense pick	10/18/2024
M.G.	4:24-cv-01983	The Carlson Law Firm	Plaintiff pick	11/4/2024

1                   **V. Non-Text Device Data Production**

2                   The Parties, along with their respective third-party vendors or consultants, had an initial meet and  
3                   confer this week on Thursday, September 19, 2024 to discuss the categories and location of data sought  
4                   from Main Devices, and the requested format for production of the agreed upon data.<sup>4</sup> Defendants provide  
5                   a list of the requested data categories to Plaintiffs on September 18, 2024. Plaintiffs have agreed to provide  
6                   a written response to that list by early next week, which will identify what requested data categories they  
7                   agree to produce immediately and those categories that will require further meet and confer discussions.  
8                   In addition, the Parties are currently working with their forensics vendors and consulting with experts to  
9                   identify the best way to compile various app usage data points from these device images in an effort to  
10                  assist in identification of relevant applications in discussions with Defendants and their ESI or forensics  
11                  vendor.

12                  The Parties have agreed to continue their meet and confer efforts over the production of this device  
13                  data, as part of the iterative process required by DMO 8, in order to meet the November 4, 2024 substantial  
14                  completion of production deadline for data from Plaintiffs' Main Devices.

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<sup>4</sup> JCCP Plaintiffs also attended that meet and confer.

1                   **VI. Lost Devices<sup>5</sup>**

2                   Based upon information provided by bellwether Plaintiffs in discovery responses and separate  
 3 correspondence, several Plaintiffs have lost, disposed of, or reset their devices they used to access  
 4 Defendants' platforms since filing their complaints. Below is a listing of the relevant information as to  
 5 each device.

6	7 Plaintiff	8 Device	9 Information concerning Loss
10	11 Craig	12 iPhone 12 ProMax	13 According to this Plaintiff's response to Interrogatory No. 7, he "sold the iPhone 12 ProMax to a phone reclamation kiosk" in August 2022.
14	15 2 Craig	16 iPhone 13 ProMax	17 According to this Plaintiff's response to Interrogatory No. 7, he "sold the iPhone 13 ProMax to a phone reclamation kiosk" after purchasing an iPhone 15 sometime after October 2023.
18	19 3 Craig	20 Lenovo Chrome book	21 According to this Plaintiff's response to Interrogatory No. 7, he "sold [his] Chromebook" in "Spring 2023."
22	23 4 Davidson	24 HP laptop	25 According to this Plaintiff's response to Interrogatory No. 7, this laptop "was taken to a pawn shop" in May 2024 and it is no longer in her possession, custody, or control.
26	27 5 B.H.	28 iPhone 15	29 On August 7, Plaintiffs informed Defendants that this Plaintiff gave this device to her father who currently possess the device. A table provided by Plaintiffs on August 7 listed the device is no longer in her possession, custody, or control, but referred Defendants to Plaintiff's August 7 email for clarification.
30	31 6 S.K.	32 iPhone 13	33 According to this Plaintiff's response to Interrogatory No. 7, she "routinely used" this device "to access Instagram and TikTok" and it is no longer "in [her] possession." According to a table provided by Plaintiffs on August 7, this device was logically imaged on September 14, 2023, so this device must have been lost after that date.
34	35 7 Melton	36 Samsung Tablet	37 According to this Plaintiff's response to Interrogatory No. 7, he "misplaced" this device in 2022 after it became inoperable.
38	39 8 Melton	40 Desktop	41 According to this Plaintiff's response to Interrogatory No. 7, he "discarded" this device in December 2023 and it "inexplicably crashed."

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 28                   <sup>5</sup> Plaintiffs state that half of the devices provided in this list were not Main Devices as defined herein.

1 9	Mullen	MacBook	According to this Plaintiffs' response to Interrogatory No. 7, she is "not in possession" of this device and stopped being in possession of it sometime after "it was imaged in 2023 in connection with the litigation," but this device is not included Plaintiffs' Table of Main Devices.
4 5 6 10	Clevenger	iPhone 13	On August 22, Plaintiffs informed Defendants that Plaintiff Clevenger inadvertently performed a factory reset on her iPhone 13 in August 2024 after the Court ordered that Plaintiffs conduct a full file system extraction of all Main Devices.

The Parties have met and conferred on some of these devices. They will continue to meet and confer regarding lost devices or data and any corresponding relief. The Parties will present any disputes over these issues to the Court in a timely fashion.

## VII. Supplemental Status Reports

The Parties will provide a Supplemental Status Report to the Court on September 27, 2024, unless the Court directs otherwise.

Respectfully submitted,

DATED: September 20, 2024

By: /s/ Draft

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## **ATTESTATION**

I, Andrea R. Pierson, hereby attest, pursuant to N.D. Cal. Civil L.R. 5-1, that the concurrence to the filing of this document has been obtained from each signatory hereto.

Dated: September 20, 2024

/s/ Andrea R. Pierson

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Andrea R. Pierson